

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to facility participation and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 54, “Facility Participation,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 249.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 249.

Purpose and Summary

Chapter 54 was reviewed as part of the Department’s five-year rules review. As part of this review, the word “enterprise” is proposed to be removed from the name of Iowa Medicaid. Form names are also proposed to be removed from the rules. The proposed amendments align residential care facilities (RCFs) rules with existing policy. RCFs no longer use cost reporting but instead have a set per diem that changes annually, and these amendments reflect those changes.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 13, 2022. Comments should be directed to:

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental

subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 441—54.1(249) as follows:

441—54.1(249) Application and contract agreement. Each facility desiring to participate in the state supplementary assistance program must enter into a contract with the department of human services and agree to the provisions as enumerated in Form 470-0443, ~~Application and Contract Agreement for Residential Care Facilities~~. The effective date of the contract shall be the first of the month that the ~~Application and Contract Agreement for Residential Care Facilities~~, form is signed by the administrator of the facility, and is received by the department. No payment shall be made for care provided before the effective date of the contract. The contract shall be in effect until the department ceases to participate in the program, until either party gives 60 days' notice of termination in writing to the other party, or until there is a change in ownership. The facility shall notify the department within 30 days of a change in ownership, a change in the number of beds or a change in administrator.

This rule is intended to implement Iowa Code section 249.12.

ITEM 2. Amend rule 441—54.2(249) as follows:

441—54.2(249) Maintenance of case records. A facility must maintain a case folder for each individual residing in the facility which contains the following:

1. Contract between the facility and the resident on Form 470-0477, ~~RCF Admission Agreement~~.
2. and 3. No change.

This rule is intended to implement Iowa Code section 249.12.

ITEM 3. Amend rule 441—54.3(249), introductory paragraph, as follows:

441—54.3(249) ~~Payment~~ Payments for residential care facilities. Payments for ~~privately operated~~ residential care facilities will be made at the maximum per diem rate in 441—subrule 52.1(3). ~~Non-privately operated facilities wishing to participate in the program shall submit a Financial and Statistical Report, Form 470-0030, to the department. The reports shall be based on the following rules.~~

ITEM 4. Amend subrule 54.3(1) as follows:

54.3(1) *Failure to maintain records.* Failure to adequately maintain fiscal records, including census records, medical charts, ledgers, journals, tax returns, canceled checks, source documents, invoices, and audit reports by or for a facility may result in the penalties specified in ~~subrule 54.8(1)~~ rule 441—79.3(249A).

ITEM 5. Rescind subrules **54.3(2)** to **54.3(11)**.

ITEM 6. Renumber subrule **54.3(12)** as **54.3(2)**.

ITEM 7. Amend renumbered subrule 54.3(2) as follows:

54.3(2) *Termination or change of ~~owner~~ ownership.*

~~α.~~ A participating facility contemplating termination of participation or negotiating a change of ownership shall provide the department of human services with at least 60 days prior notice. A transfer of ownership or operation terminates the participation agreement. A new owner or operator shall establish that the facility meets the conditions for participation and enter into a new agreement. ~~The person~~

responsible for transfer of ownership or for termination is responsible for submission of a final financial and statistical report through the date of the transfer. No payment to the new owner shall be made until formal notification is received. The following situations are defined as transfer of ownership:

(1) ~~In the case of a partnership which is a party to an agreement to participate in the residential care program, the removal, addition, or substitution of an individual for a partner in the association, in the absence of an express statement to the contrary, dissolves the old partnership and creates a new partnership which is not a party to the previously executed agreement and a transfer of ownership has occurred.~~

(2) ~~When a participating nursing home is a sole proprietorship, a transfer of title and property to another party constitutes a change of ownership.~~

(3) ~~When the facility is a corporation, neither a transfer of corporate stock nor a merger of one or more corporations with the participating corporation surviving is a transfer of ownership. A consolidation of two or more corporations resulting in the creation of a new corporate entity constitutes a change of ownership.~~

(4) ~~When a participating facility is leased, in whole or in part, a transfer of ownership is considered to have taken place.~~

b. ~~Upon change of ownership, the new owner or operator shall furnish the department with an appraisal made by a department approved appraiser. The appraisal shall be based on market values.~~

c. ~~The new owner or operator shall either continue the previous owner's depreciation schedule or set up a new depreciation schedule using the amount obtained by deducting the depreciation expense incurred since July 1, 1980, from the value of depreciable real property. The value will be the sale price or appraisal value, whichever is less.~~

ITEM 8. Rescind subrules **54.3(13)** to **54.3(15)**.

ITEM 9. Amend rule **441—54.3(249)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 249.12 and ~~1992 Iowa Acts, chapter 1241, section 33, subsection 3.~~

ITEM 10. Amend rule **441—54.5(249)**, introductory paragraph, as follows:

441—54.5(249) Personal needs account. When a facility manages the personal needs funds of a resident, it shall establish and maintain a system of accounting for expenditures from the resident's personal needs funds. The personal needs funds shall be deposited in a single checking account, not commingled with trust funds from any other facility, nor commingled with facility operating funds except for facility funds, not to exceed \$500, deposited to cover bank charges and have in the account name the terms "Resident Trust Funds." The funds shall be deposited in a bank or other institution within the state of Iowa insured by the federal government. Expense for bank service charges for this account is ~~an allowable audit cost under rule 441—54.3(249)~~ a cost of doing business if the service cannot be obtained free of charge. The department shall charge back to the facility any maintenance item included in the computation of the audit cost that is charged to the resident's personal needs allowance when such charge constitutes double payment. Unverifiable expenditures charged to personal needs accounts may be charged back to the facility. The accounting system is subject to audit by representatives of the Iowa department of human services, and shall meet the following criteria:

ITEM 11. Amend rule **441—54.6(249)** as follows:

441—54.6(249) Case activity report. ~~A Case Activity Report, Form 470-0042,~~ shall be submitted to the department whenever a Medicaid applicant or recipient enters the facility, changes level of care, or is discharged from the facility.

This rule is intended to implement Iowa Code section 249.12.

ITEM 12. Amend rule 441—54.7(249), introductory paragraph, as follows:

441—54.7(249) Billing procedures. In order to determine the amount of payment to the recipient, the facility shall submit a billing form to ~~the~~ Iowa Medicaid ~~enterprise~~ following the month in which service was provided.

ITEM 13. Rescind subrules **54.7(1)** and **54.7(2)**.

ITEM 14. Rescind and reserve rule **441—54.8(249)**.